



**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

In Re the Complaint of ACTION MOTOR  
SPORTS OF TAHOE, as Owner of the  
2003 Bombardier Seadoo bearing  
Hull ID Number ZZN25443D404, for  
Exoneration From or Limitation  
of Liability,

Petitioner,

CASE NO.: 3:06-CV-81-BES-VPC

**ORDER OF DISMISSAL WITHOUT  
PREJUDICE**

**PRESENT:**

THE HONORABLE Brian Sandoval, UNITED STATES DISTRICT JUDGE

DEPUTY CLERK: NONE APPEARING REPORTER: NONE APPEARING

COUNSEL FOR APPELLANT(S): NONE APPEARING

COUNSEL FOR APPELLEE(S): NONE APPEARING

**MINUTE ORDER IN CHAMBERS:**

Petitioner originally filed a Complaint for Exoneration From or Limitation of Liability (#1) on February 10, 2006. Thereafter, on February 21, 2006, the court issued an Order Directing Motion to Issue and Restraining all Suits (#11). Due to inactivity in the case, on March 3, 2009, the court filed the Notice of Intention to Dismiss Pursuant to Local Rule 41-1 (#12). Notice was given to the petitioner that failure to comply shall result in automatic dismissal of this action. Petitioner did not file a response.

**A. Federal Rule of Civil Procedure 41 and Local Rule 41-1**

Federal Rule of Civil Procedure 41 governs the involuntary dismissal of a plaintiff's claim for failure to prosecute. It provides that if the plaintiff fails to prosecute or to comply

1 with these rules or a court order, a defendant may move to dismiss the action or any claim  
2 against it. Involuntary dismissal is within the discretion of the court. Bishop v. Lewis, 155  
3 F.3d 1094, 1096 (9<sup>th</sup> Cir. 1998).

4 LR 41-1 further provides that all civil actions that have been pending in this court for  
5 more than nine (9) months without any proceeding of record having been taken, may, after  
6 notice, be dismissed for want of prosecution on motion of counsel or by the court. Here,  
7 petitioner has not participated in any proceeding of record in almost three years. Under these  
8 circumstances, dismissal of this case is appropriate.

9 A review of the Court's record shows that petitioner has failed to show good cause why  
10 this action should not be for dismissed without prejudice for want of prosecution.

11 IT THEREFORE ORDERED that this action is DISMISSED without prejudice. The  
12 Clerk of the Court shall enter judgment accordingly.

13 DATED this 2<sup>nd</sup> day of April, 2009.

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BRIAN SANDOVAL  
United States District Judge